

1 GENERAL GOVERNMENT CABINET

2 KENTUCKY REAL ESTATE COMMISSION

3 (EMERGENCY AMENDMENT)

4 201 KAR 11:011E. Definitions for 201 KAR Chapter 11.

5 RELATES TO: KRS 324.010(1), 324.046(1), 324.111(1), (2), (3), (4), (6), 324.117(1), (5),

6 324.160(4)(j), (m), (r), 324.410(1), 324.420(1), (2), (3), (4), (5)

7 STATUTORY AUTHORITY: KRS 324.117(5), 324.281(5), 324.282

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.282 authorizes the commission to

9 promulgate administrative regulations necessary to implement KRS Chapter 324. This

10 administrative regulation defines terms used in the implementation of KRS Chapter 324.

11 Section 1. Definitions.

12 (1) "Academic credit hour" means:

13 (a) One (1) college semester hour; or

14 (b) Sixteen (16) fifty (50) minute hours of actual classroom attendance.

15 (2) "Contract deposit" means money delivered to a licensed agent as part of an offer to enter a  
16 contract for the sale of real property after:

17 (a) The offer or counteroffer is accepted; and

18 (b) An executory contract exists.

19 (3) "False, misleading, or deceptive advertising" means an advertisement that is prohibited  
20 pursuant to KRS 324.117(1) because the advertisement:

21 (a) Is contrary to fact;

(b) Leads a person to a mistaken belief or conclusion; or

(c) Knowingly made a representation that is contrary to fact.

(4) "Fraud" or "fraudulent dealing" means a material misrepresentation that:

(a) Is:

1. Known to be false; or

2. Made recklessly;

(b) Is made to induce an act;

(c) Induces an act in reliance on the misrepresentation; and

(d) Causes injury.

(5) "Guaranteed sales plan" means an offer or solicitation:

(a) To guarantee the sale of an owner's real estate; or

(b) To guarantee the purchase of the owner's real estate if the owner's real estate is not sold by the broker.

(6) "Inducement" means money, a free gift, a prize, or any other thing of value that a licensee would offer a potential client or customer [~~"Prize" means an item of value that is:~~

~~—(a) Offered to a prospective purchaser on a condition set forth in the offer to the prospective purchaser; and~~

~~—(b) Not a complimentary:~~

~~—1. Refreshment, including a soft drink or snack, that is offered to the general public; or~~

~~—2. Gift that:~~

~~—a. Has a value less than \$100;~~

~~—b. Is given to the purchaser at or after the closing at which the purchaser's purchase of the real estate was consummated; and~~

1    ~~—c.— Was not offered prior to closing].~~

2       (7) “Rebate” means a payment of monies or anything of value by, or on behalf of, a licensee  
3 to a client or customer (or to a third party authorized by the client or customer to receive the  
4 payment) that is in connection with the provision of real estate brokerage services. Examples of  
5 rebates directed to third parties include, but are not limited to, payments to charities, home  
6 inspectors, and moving services. A rebate does not include compensation paid for real estate  
7 brokerage services to any third party who is not licensed in Kentucky to perform such services;  
8 this definition does not authorize a client or customer to permit or direct such payments to an  
9 unlicensed third party for performing such services.

10    (8)[(7)] “Required disclosure” means:

11       (a) In print advertising, that the disclosure shall be in letters at least twenty-five (25) percent  
12 the size of the largest letters in the advertisement;

13       (b) In radio advertising, that the disclosure shall be verbal and clearly understandable; and

14       (c) In television advertising, that the disclosure shall:

15       1. Be verbal and clearly understandable; or

16       2. Be written and appearing on the screen at least three (3) seconds for the first line of  
17 lettering and one (1) second for each additional line of lettering, and in letters:

18       a. Which are eighteen (18) video scan lines in size for letters which are all upper case; or

19       b. Which are twenty-four (24) video scan lines in size for upper case capitals if upper case  
20 capitals and lower case letters are used.

21    (9)[(8)] “Without unreasonable delay” means within three (3) business days of the creation of  
22 an executory contract for the sale or lease of real property.

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Date

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Sue Teegarden, Chairperson  
Kentucky Real Estate Commission

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 201 KAR 11:011E

Contact person: Y. Denise Payne Wade

- (1) Provide a brief summary of:
  - a. What this administrative regulation does: This regulation outlines the definitions for several statutory requirements.
  - b. The necessity of this administrative regulation: Definitional sections are required to clarify certain key statutory terms.
  - c. How this administrative regulation conforms to the content of the authorizing statutes: This regulation defines certain terms found in KRS Chapter 324.
  - d. How this administrative regulation currently assists or will assist in the effective administration of the statutes: The definitions provide clarification for licensees and consumers to understand certain statutory terms.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
  - a. How the amendment will change this existing administrative regulation: This amendment eliminates the definition of “prize” as that issue will be handled by the amendments to 201 KAR 11:121 and adds the definitions of “inducement” and “rebate”.
  - b. The necessity of the amendment to this administrative regulation: In amending 201 KAR 11:121, it is necessary to delete the definition of “prize” and add the definitions of “inducement” and “rebate”.
  - c. How the amendment conforms to the content of the authorizing statutes: The amendments to 201 KAR 11:121 will specifically allow licensees to offer rebates and inducements to their clients or customers, when licensees disclose to them, in writing, the terms of the rebates or inducements. This amendment defines “inducement” and “rebate” as those terms are used in 201 KAR 11:121.
  - d. How the amendment will assist in the effective administration of the statutes: This amendment will simply remove a definition and add two additional ones due to a clarification and codification in another proposed amendment. This definitional change will eliminate any confusion and discrepancies between the two regulations.
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This is simply a definitional amendment.
- (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment: This amendment is simply eliminating the definition of a term and adding two additional ones.

- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- a. Initially: None
  - b. On a continuing basis: None
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding will be necessary.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in funding will be necessary.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are or will be established.
- (9) TIERING: Is tiering applied? Explain why tiering was or was not used.)  
Tiering was not used because this regulation should not disproportionately affect any particular group of people.